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BOARD OF
MEDICAL EXAMINERS

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RECEIVED SACRAMENTO
BOARD OF
MEDICAL EXAMINERS

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BEFORE THE
BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

CHARLES RICHARD SCOTT, M.D.

Physician's and Surgeon's
Certificate No. G-23514

Respondent.

No. D-1517

N-4808

DECISION

The attached Proposed Decision of the Hearing Officer is
hereby adopted by the Board of Medical Examiners
as its Decision in the above-entitled matter.

This Decision shall become effective on March 12, 1975.

IT IS SO ORDERED February 10, 1975.


HARRY A. OBERHELMAN, JR., M.D.
Secretary-Treasurer

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BOARD OF MEDICAL EXAMINERS
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PROPOSED DECISION

This matter came on for hearing before Rudolf H. Michaels, a Hearing Officer of the Office of Administrative Hearings on November 4, 1974, in Sacramento, California.

The complainant was represented by Joel S. Primes, Deputy Attorney General.

The respondent was present and was represented by Donald J. Licker, his attorney.

Oral and documentary evidence was received, the hearing was closed and the matter was submitted. The Hearing Officer makes the following proposed decision:

FINDINGS OF FACT

I

Raymond Reid made the accusation in his official capacity of Executive Secretary of the Board of Medical Examiners of the State of California (hereafter referred to as the "Board").

II

On October 10, 1972, the Board issued to respondent Physician's and Surgeon's Certificate No. G-23514 to practice medicine and surgery in California. At all times material herein, respondent was and he now is licensed by the Board to practice medicine and surgery in this State.

III

On November 11, 1973, respondent had in his unlawful possession in his residence one large marijuana plant and several smaller marijuana plants and a quantity of marijuana leaves and seeds.

IV

On August 20, 1974, respondent pleaded guilty in the Municipal Court of the Sacramento Judicial District to one count of possession of marijuana, a violation of Section 11357 of the Health and Safety Code. Two other counts were dismissed. The offense was declared to be a misdemeanor. On September 10, 1974, respondent was placed on probation for three years, subject to the usual conditions of good behavior and the additional conditions that he pay a fine and assessment totaling \$2,500; that he submit to body searches by law enforcement officers at any time of day or night, and with or without a warrant; and that he serve each weekend, for six months, as a volunteer in a medical program under the direction of the Probation Officer.

V

With regard to the allegations of paragraph III of the Second Cause for Disciplinary Action of the Accusation, it was stipulated, and is therefore found to be true, that some time before November 11, 1973, respondent obtained 30 dexedrine tablets by writing a prescription for one Robert Weston and then having the drugs delivered to himself. The remaining allegations of paragraph III of the Second Cause of Action are not supported by a preponderance of evidence in the record and are, therefore, found not to be true.

VI

At the time of the conduct described in Findings III and V, respondent was a Major in the United States Air Force, assigned to McClellan Air Force Base as a radiologist. He was unmarried at the time, lived in an apartment, and began to experiment with the growing of marijuana plants. He used marijuana on occasion, but never in any manner which would affect the performance of his duties, nor did he grow the plants for commercial purposes. He was also involved with a bookmaker with whom he placed various bets on sports events, but never to a point beyond his means. He obtained the small quantity of 5 mg. dextedrine tablets described in Finding V to help him keep alert on a long drive to the State of Washington. He used only six of these tablets.

VII

Respondent ascribes his behavior during this period to immaturity. He was about 22 years old at the time and evidently at loose ends despite the demands his assignment made on him. His colleagues and superiors at McClellan Air Force Base give him the highest possible recommendation as an excellent and conscientious physician whose skill goes far beyond his immediate specialty of radiology. The attitude of the United States Air Force can be judged by the fact that, despite the pendency of serious criminal charges and the possibility of disciplinary proceedings against respondent's license, he was honorably discharged in early August of 1974. In late July, he married his present wife and became the step-father of a boy seven years old. The guilty plea described in Finding IV occurred almost immediately after respondent's separation from the service.

VIII

Since being placed on probation as described above, respondent, now a Board-qualified radiologist, has become associated with a medical corporation which practices radiology in Reno, Nevada. He is a 1968 graduate of the University of Washington School of Medicine, served his internship in Santa Barbara, California, and three years as a diagnostic radiologist in Seattle, Washington. In 1972, he entered the U.S. Air Force. An earlier marriage ended in divorce in 1972. He is licensed in California, Nevada, and Washington.

IX

At the present time, respondent needs his California license in order to comply with the condition of probation requiring him to render volunteer medical services on weekends in Sacramento County. Respondent has begun to carry out this obligation after some delay because it was difficult to find a constructive volunteer medical activity which he could perform on weekends.

X

Loss of the privilege to prescribe narcotics or dangerous drugs would seriously impair respondent's ability to render the volunteer service required of him as a condition of court probation. It would also prevent him from functioning effectively in emergency rooms in which he now often works on a part-time basis in order to pay off the financial obligations he incurred as a result of the events described above.

XI

Respondent gives every indication of now having achieved a degree of stability which makes it highly improbable that he will again indulge in the kind of irresponsible behavior which led to his present predicament.

XII

Respondent's conduct described in Findings III and V bears a substantial relationship to the activity for which he is licensed.

DETERMINATION OF ISSUES

I

Separate cause exists for the revocation or suspension of the certificate described in Finding II under the facts contained in the findings and the provisions of the Business

and Professions Code (B&PC) and the Health and Safety Code (H&SC) listed below:

- (1) Finding III, 11357 H&SC and 2360 and 2391.5 B&BC;
- (2) Finding IV, 11357 H&SC and 490, 2360, 2361(e) and 2391.5 B&PC; and
- (3) Finding V, 11368 H&SC and 2360 and 2391.5 B&PC.

II

The contents of Findings VI through XI were considered in the formulation of the penalty.

ORDER

The certificate heretofore issued to respondent and described in Finding II is revoked, provided, however, that the execution of this order of revocation is stayed and that respondent is placed on probation for a period of five (5) years on the following terms and conditions:

1. Respondent shall comply with all federal, state and local laws and with the rules and regulations of the Board governing his activities as a licensed physician and surgeon.
2. Respondent shall comply with the terms and conditions of any court-imposed probation to which he is or may become subject.
3. Respondent shall report in person to the Board at its regular annual meetings held in Sacramento, commencing in 1974 and each year thereafter during the period of probation.
4. Respondent shall submit to the Board, at quarterly intervals, and affidavit that he has fully and faithfully complied with all the terms and conditions of probation imposed by this order, to begin ninety days after its effective date.
5. Respondent shall, during the period of probation entirely abstain from the use of narcotics for himself except on prescription of a duly licensed prescriber other than himself.

6. Should respondent fail to comply with any of the above terms or conditions, the Board may, after first giving him notice and an opportunity to be heard, terminate the stay of execution of the order of revocation, may make the order of revocation immediately effective, or may, in its discretion, otherwise modify this order. The conviction of a crime, including a conviction after a plea of nolo contendere, shall be prima facie evidence of a violation of the terms of probation.

7. On expiration of the five-year period of probation without termination of the stay of execution or modification of the terms and conditions of probation, this stay shall become permanent.

The foregoing constitutes my proposed decision in this matter. I recommend its adoption as the decision of the Board of Medical Examiners of the State of California.

Dated: December 20, 1974

Rudolf H. Michaels

RUDOLF H. MICHAELS, Hearing Officer
Office of Administrative Hearings

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Attorneys for Board of Medical Examiners

BEFORE THE
BOARD OF MEDICAL EXAMINERS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the
Accusation Against:

No. 0-1517

CHARLES RICHARD SCOTT, M.D.
2852 Westwood Lane, #6
Carmichael, CA

ACCUSATION

Physician's and Surgeon's
Certificate No. G-23514

Respondent.

COMES NOW THE COMPLAINANT, RAYMOND REID, and as
cause for disciplinary action against the above-named respondent charges and alleges as follows:

I

That the complainant, Raymond Reid, is the Executive Secretary of the Board of Medical Examiners of the State of California (hereinafter referred to as the Board), and makes and files this Accusation in such official capacity and not otherwise.

II

That the respondent, Charles Richard Scott, M.D., on or about October 10, 1972 was issued Physician's and Surgeon's Certificate No. G-23514 to practice medicine and surgery by the Board and that at all times mentioned herein respondent was and now is licensed by the Board to practice medicine and surgery in this state.

1.

1 III

2 That Business and Professions Code section 2360 provides
3 in pertinent part that every certificate issued by the Board may
4 be suspended or revoked.

5 IV

6 That Business and Professions Code section 2391.5 pro-
7 vides that the violation of any of the statutes of this State
8 regulating narcotics and dangerous drugs, constitutes unpro-
9 fessional conduct.

10 V

11 Business and Professions Code section 2384 provides
12 in pertinent part that the conviction of a charge of violation
13 of the statutes of this State, regulating narcotics constitutes
14 unprofessional conduct.

15 VI

16 Health and Safety Code section 11032 provides in
17 pertinent part that the term "narcotics" is construed to mean
18 controlled substances classified in Schedules I and II.

19 VII

20 Health and Safety Code section 11054(d)(10) (Schedule 1)
21 provides in pertinent part that marijuana is a Schedule 1 con-
22 trolled substance.

23 VIII

24 Health and Safety Code section 11357 (unauthorized
25 possession) provides in pertinent part that every person who
26 possesses any marijuana, except as otherwise provided by law,
27 shall be punished by imprisonment in the county jail for a
28 period of not more than one year or the state prison for a
29 period of not less than one year or more than 10 years.

30 IX

31 Health and Safety Code section 11358 (unauthorized

1 cultivation, harvesting or processing) provides in pertinent
2 part that every person who plants, cultivates, harvests, dries,
3 or processes any marijuana or any part thereof, except as
4 otherwise provided by law, shall be punished by imprisonment
5 in the state prison for a period of not less than one year or
6 more than 10 years and shall not be eligible for release upon
7 completion of sentence or on parole or any other basis until
8 he has been imprisoned for a period of not less than one year
9 in the state prison.

10 X

11 Respondent, Charles Richard Scott, M.D., has been
12 guilty of unprofessional conduct as defined by the provisions
13 of sections 2360, 2384 and 2391.5 of the Code in that he has
14 committed the following acts in violation of Health and Safety
15 Code sections 11357 and 11358. On November 11, 1973 at 11:00 a.m.
16 at apartment #6, 2852 Westwood Lane, Carmichael, California,
17 respondent had in his possession a ten foot marijuana plant.
18 In the kitchen respondent was drying loose marijuana leaves.
19 Respondent also had in his possession a plastic bag containing
20 marijuana seeds, and marijuana in a bottle. Respondent admitted
21 to using the marijuana he was growing and that he was awaiting
22 "some real good marijuana seeds coming in from Thailand."
23 On August 6, 1974 in the Sacramento Municipal Court, Sacramento,
24 California, respondent will plead guilty to a violation of
25 section 11357 of the Health and Safety Code of the State of
26 California, possession of marijuana, a felony.

27 SECOND CAUSE FOR DISCIPLINARY ACTION

28 I

29 That paragraphs I, II, III, IV of the First Cause
30 for Disciplinary Action are incorporated herein as if set
31 forth in full.

II

Health and Safety Code section 11368 provides as follows:

"Every person who forges or alters a prescription, or who issues a prescription bearing a forged or fictitious signature for any narcotic, or who obtains any narcotic by any forged, fictitious, or altered prescription, or who has in possession any narcotic secured by such forged, fictitious, or altered prescription, shall for the first offense be punished by imprisonment in the county jail for not less than six months nor more than one year, or in the state prison for not more than six years, and for each subsequent offense shall be imprisoned in the state prison for not more than 10 years."


III

Respondent Charles Richard Scott, M.D., is guilty of unprofessional conduct under the provisions of sections 2360 and 2391.5 of the Code in that respondent prepared prescriptions for individuals who worked for him at McClellan Air Force Base for amphetamines. The persons would take the prescriptions to the pharmacy and obtain the drug which was then given to respondent who used the drug himself. On November 11, 1973, respondent had in his possession thorazine, which was prescribed for a Carol K[REDACTED]; dextroamphetamine and d[REDACTED]erine, which had been prescribed for a Robert W[REDACTED], donnatal and percogesic, which had been prescribed for a Mrs. B[REDACTED]

WHEREFORE, said complainant prays that the Board of Medical Examiners hold a hearing and upon proof of the charges contained herein take disciplinary action and suspend or revoke the license heretofore issued to the respondent to practice as

1 a physician and surgeon in the State of California, and for
2 such other and further action as the Board in its discretion
3 deems proper.

4 Dated: 4/18/74

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8 RAYMOND REID
9 Executive Secretary
10 Board of Medical Examiners
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